



General Assembly

January Session, 2001

Raised Bill No. 1129

LCO No. 3754

Referred to Committee on Energy and Technology

Introduced by:
(ET)

AN ACT CONCERNING RIGHTS OF WATER COMPANY CONSUMERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 25-32e of the general statutes is repealed and the
2 following is substituted in lieu thereof:

3 (a) If, upon review, investigation or inspection, the Commissioner of
4 Public Health determines that a water company has violated any
5 provision of section 25-32, section 25-32d or any regulation adopted
6 under section 25-32d, or any regulation in the Public Health Code
7 relating to the purity and adequacy of water supplies or to the testing
8 of water supplies or any report of such testing, the commissioner may
9 impose a civil penalty of not [to exceed five thousand dollars per
10 violation per day] less than one hundred dollars per violation per day,
11 nor more than one thousand dollars per violation per day upon such
12 water company. Governmental immunity shall not be a defense
13 against the imposition of any civil penalty imposed pursuant to this
14 section. The commissioner shall adopt regulations, in accordance with
15 the provisions of chapter 54, establishing a schedule or schedules of
16 the amounts, or the ranges of amounts, of civil penalties which may be
17 imposed under this section. In adopting such regulations, the

18 commissioner shall consider the size of or the number of persons
19 served by the water company, the level of assessment necessary to
20 insure immediate and continued compliance with such provision, and
21 the character and degree of injury or impairment to or interference
22 with or threat thereof to: (1) The purity of drinking water supplies; (2)
23 the adequacy of drinking water supplies; and (3) the public health,
24 safety or welfare. No such civil penalty may be imposed until the
25 regulations required by this subsection have been adopted.

26 (b) In setting a civil penalty in a particular case, the commissioner
27 shall consider all factors which the commissioner deems relevant,
28 including, but not limited to, the following: (1) The amount of
29 assessment necessary to insure immediate and continued compliance
30 with such provision; (2) the character and degree of impact of the
31 violation on the purity and adequacy of drinking water supplies; (3)
32 whether the water company incurring the civil penalty is taking all
33 feasible steps or procedures necessary or appropriate to comply with
34 such provisions or to correct the violation; (4) any prior violations by
35 such water company of statutes, regulations, orders or permits
36 administered, adopted or issued by the commissioner; (5) the character
37 and degree of injury to, or interference with, public health, safety or
38 welfare which has been or may be caused by such violation; and (6)
39 whether the consumers of the water company have been notified of
40 each violation.

41 (c) If the commissioner has reason to believe that a violation has
42 occurred, the commissioner may impose a penalty if compliance is not
43 achieved by a specified date and send to the violator, by certified mail,
44 return receipt requested, or personal service, a notice which shall
45 include: (1) A reference to the sections of the statute or regulation
46 involved; (2) a short and plain statement of the matters asserted or
47 charged; (3) a statement of the amount of the civil penalty or penalties
48 to be imposed; (4) the initial date of the imposition of the penalty; and
49 (5) a statement of the party's right to a hearing. The commissioner shall
50 require the water company to send a copy of such notice to its

51 consumers and to the news organizations that are designated by the
52 commissioner.

53 (d) The civil penalty shall be payable for noncompliance on the date
54 specified in subsection (c) of this section and for each day thereafter
55 until the water company against which the penalty was issued notifies
56 the commissioner that the violation has been corrected and that notice
57 of such violation has been sent to its consumers. Upon receipt of such
58 notification, the commissioner shall determine whether or not the
59 violation has been corrected and shall notify the water company, in
60 writing, of such determination. The water company may, within
61 twenty days after such notice is sent by the commissioner, request a
62 hearing to contest an adverse determination. If, after such hearing, the
63 commissioner finds that the violation still exists, or if the water
64 company fails to request a hearing, the penalty shall continue in force
65 from the original date of imposition.

66 (e) The water company to which the notice is addressed shall have
67 twenty days from the date of mailing of the notice to make written
68 application to the commissioner for a hearing to contest the imposition
69 of the penalty. The water company shall send a copy of such
70 application to its consumers. All hearings under this section shall be
71 conducted pursuant to sections 4-176e to 4-184, inclusive, except that
72 the presiding officer shall automatically grant each consumer of the
73 water company intervenor status in the proceeding. Any civil penalty
74 may be mitigated by the commissioner upon such terms and
75 conditions as the commissioner, in the commissioner's discretion,
76 deems proper or necessary upon consideration of the factors set forth
77 in subsection (b) of this section.

78 (f) A final order of the commissioner assessing a civil penalty shall
79 be subject to appeal as set forth in section 4-183 after a hearing before
80 the commissioner pursuant to subsection (e) of this section, except that
81 any such appeal shall be taken to the superior court for the judicial
82 district of New Britain and shall have precedence in the order of trial

83 as provided in section 52-191. Such final order shall not be subject to
84 appeal under any other provision of the general statutes. No challenge
85 to any such final order shall be allowed as to any issue which could
86 have been raised by an appeal of an earlier order, notice, permit, denial
87 or other final decision by the commissioner. The consumers of the
88 water company against which the order was assessed shall have the
89 right to be heard on such appeal.

90 (g) If any water company fails to pay any civil penalty, the Attorney
91 General, upon request of the commissioner, may bring an action in the
92 superior court for the judicial district of Hartford to obtain
93 enforcement of the penalty by the court. All actions brought by the
94 Attorney General pursuant to the provisions of this section shall have
95 precedence in the order of trial as provided in section 52-191.

96 (h) The provisions of this section are in addition to and not in
97 derogation of any other enforcement provisions of any statute
98 administered by the commissioner or the rights of consumers,
99 including, but not limited to, their common law rights. The powers,
100 duties and remedies provided in such other statutes, and the existence
101 of or exercise of any powers, duties or remedies under this section or
102 under such other statute shall not prevent the commissioner from
103 exercising any other powers, duties or remedies available to the
104 commissioner at law or in equity.

105 Sec. 2. Section 25-32g of the general statutes is repealed and the
106 following is substituted in lieu thereof:

107 If the Commissioner of Public Health finds after investigation that
108 any person is causing, engaging in or maintaining, or is about to cause,
109 engage in or maintain, any condition or activity which violates any
110 provision of sections 19a-36 to 19a-39, inclusive, or sections 25-32 to 25-
111 54, inclusive, or any regulation or permit adopted or issued thereunder
112 and constitutes an immediate threat to the quality or adequacy of any
113 source of water supply, [he] the commissioner may, without prior
114 hearing, issue an order in writing to such person to discontinue, abate,

115 alleviate or correct such condition or activity. Upon receipt of such an
116 order such person shall immediately discontinue, abate, alleviate or
117 correct such condition or activity. The commissioner shall, within ten
118 days after such order, hold a hearing to provide the person an
119 opportunity to be heard and show that such condition, activity or
120 violation does not exist. A consumer of a water company that utilizes
121 such water supply shall have the right to be heard in such proceeding.
122 Such order shall remain in effect until ten days after the hearing within
123 which time a new decision based on the hearing shall be made.

124 Sec. 3. Subsection (a) of section 25-36 of the general statutes is
125 repealed and the following is substituted in lieu thereof:

126 (a) Except as provided otherwise in this part, any person or
127 corporation aggrieved by any order of the Department of Public
128 Health made under the provisions of part III of this chapter, may
129 appeal therefrom in accordance with the provisions of section 4-183,
130 except venue shall be in the judicial district in which the source of the
131 water or ice supply is located. If such source is located in more than
132 one judicial district, the appeal shall be taken to the court for that
133 judicial district containing the part of such source nearest the mouth of
134 the stream or river forming the main portion of the source of supply.
135 If a water company is subject to such an order and such water
136 company takes an appeal in accordance with this subdivision, the
137 water company shall provide notice to its consumers of such appeal,
138 and such consumers shall have the right to be heard in such appeal.
139 Each order of the Department of Public Health issued under the
140 foregoing provisions to any person or corporation shall specify the
141 time within which such person or corporation shall comply with the
142 terms thereof. If such person or corporation fails to comply with the
143 terms of such order and no appeal is taken therefrom, the state's
144 attorney for the judicial district of Hartford shall bring a complaint
145 against such person or corporation to the superior court for said
146 judicial district.

Statement of Purpose:

To require water companies to provide certain notifications to its consumers and to provide water company consumers with the right to participate in certain proceedings.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]